STATE OF ILLINOIS HUMAN RIGHTS COMMISSION

IN THE MATTER OF:)
TERRY PITTS,	
Complainant, and ILLINOIS DEPARTMENT OF CORRECTIONS,) Respondent.	CHARGE NO(S): 2008CA0600 EEOC NO(S): N/A ALS NO(S): 08-0556
<u>N</u> :	<u>OTICE</u>
exceptions to the Recommended Order and pursuant to Section 8A-103(A) and/or 8B-103	Human Rights Commission has not received timel Decision in the above named case. Accordingly (A) of the Illinois Human Rights Act and Sections, that Recommended Order and Decision has now on.
STATE OF ILLINOIS HUMAN RIGHTS COMMISSION) Entered this 9 th day of February 2010
	N. KEITH CHAMBERS EXECUTIVE DIRECTOR

STATE OF ILLINOIS HUMAN RIGHTS COMMISSION

IN THE MATTER OF:)
TERRY PITTS,))
Complainant,) Charge No. 2008CA0600) EEOC No. N/A) ALS No. 08-0556
and)
ILLINOIS DEPARTMENT OF CORRECTIONS,))) Judge Reva S. Bauch
Respondent.	,)

RECOMMENDED ORDER AND DECISION

This matter is before the Commission on Respondent's Motion to Dismiss Complainant's Complaint ("Motion") for lack of jurisdiction. Complainant stated at the status hearing that he filed his Complaint prematurely and that Respondent's Motion should be granted. This matter is ready for ruling.

The Illinois Department of Human Rights ("Department") is an additional statutory agency that has issued state actions in this matter. Therefore, the Department is an additional party of record.

Determination

The Complaint was untimely filed. Thus, the Commission has no jurisdiction over it, and it must be dismissed, without prejudice.

Findings of Fact

- 1. On September 25, 2007, Complainant filed a Charge with the Department.
- On January 24, 2008, Complainant agreed to extend the 365 day time limit for the Department's investigation by 300 days.
- 3. The deadline for the Department to complete its investigation is July 20, 2009.

- Complainant filed a pro se Complaint against the Respondent on December 29, 2008.
- 5. Complainant agrees that his Complaint was filed prematurely.

Conclusions of Law

- Complainant is an individual claiming to be aggrieved by a violation of the Illinois Human Rights Act, ("Act"), 775 ILCS 5/1-102 et seq.
- The Commission has the authority to determine whether jurisdiction over the matter exists.
- Section 7A-102(G)(2) of the Act provides that an aggrieved party may individually file a complaint with the Commission between 365 and 395 days after the charge is filed, or such longer period agreed to in writing by all parties.
- 4. An aggrieved party may not file a complaint outside the 30-day time period provided by 7A-102(G)(2) of the Act.
- If an aggrieved party files a complaint either before or after the 30-day period granted by 7A-102(G)(2), that complaint is a nullity and the Commission has no jurisdiction over it.
- 6. The Complaint is not timely because Complainant filed it before the 30-day time period had begun.
- Because Complainant did not file his Complaint in a timely fashion, within the 30day period provided by 7A-102(G)(2) of the Act, the Commission does not have jurisdiction over the Complaint.

Discussion

Respondent requests the Commission dismiss the Complaint because the Complainant failed to file his Complaint within the 30-day window in accordance with 775 ILCS 5/7A-102(G)(2). Complainant concedes that he filed the Complaint prematurely. The Commission has considered numerous cases in which aggrieved parties have filed

their own complaints outside the 30-day period. Whether those parties have filed their complaints after the period has begun or before the period has begun, the Commission has found the attempted filings to be jurisdictionally deficient. **David v. Human Rights Com'n**, 286 III App3d 508 (1997); see also **Heeter and Bd. of Ed. of Riverdale Community School Dist. 110,** IHRC, Dec. 23, 1994; **Brumzick and Intern'l Paper Co.,** IHRC, 5514(s), June 24, 1992.

Recommendation

I recommend that the Commission dismiss the Complaint, without prejudice.

HUMAN RIGHTS COMMISSION

BY:	
-	REVA S. BAUCH
	DEPUTY CHIEF ADMINISTRATIVE LAW JUDGE
	ADMINISTRATIVE LAW DIVISION

ENTERED: APRIL 13, 2009